IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MICHAEL WOOD,

       Plaintiff,

                                         Civil Action 3:22-cv-351
    v.   **Judge Walter H. Rice**
                                         Magistrate Judge Elizabeth P. Deavers

ANTHONY REYNOLDS, *et al.***,**

       Defendants.

ORDER

This matter is before the Court for consideration of the Motion to Strike Defendant Zach Storts Answer to Plaintiff's Amended Complaint. (ECF No. 28 (the "Motion to Strike").) Plaintiff seeks to strike Defendant Zach Storts Answer to Plaintiff's Amended Complaint, ECF No. 21 ("Defendant Storts' Answer"), because Defendant Storts' attorney did not file a notice of appearance prior to filing the Answer. (*Id.*) On June 24, 2024, Defendant Storts opposed the Motion to Strike. (ECF No. 28.)

The Motion to Strike is not well taken. As Defendant Storts correctly noted, his counsel was not required to file an independent notice of appearance, and here, Defendant Storts' Answer served as his counsel's notice of appearance in this action. *Ferris v. Schofield*, No. 14-1024-JDT-EGB, 2015 WL 403105, at *1 (W.D. Tenn. Jan. 28, 2015) ("When a formal notice of appearance is not filed, the first document filed by an attorney on behalf of a party serves as the notice of appearance."). Accordingly, the Motion to Strike (ECF No. 28) is **DENIED**.

Finally, the Court notes that prior to filing the subject Motion to Strike, Plaintiff filed an Application for Clerk's Entry of Default, seeking an entry of default against Defendant Storts.

(ECF No. 27.) Because Plaintiff did not, and cannot, show that Defendant Storts has failed to

plead or otherwise defend this action, the Clerk is **DIRECTED NOT** to enter default against

Defendant Storts in this action. *See* Fed. R. Civ. P. 55(a) (Requiring a party's failure to plead or

otherwise defend to be "shown by affidavit or otherwise").

      IT IS SO ORDERED.

Date: June 25, 2024   **/s/ *Elizabeth A. Preston Deavers***
                                                ELIZABETH A. PRESTON DEAVERS
                                                UNITED STATES MAGISTRATE JUDGE

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